IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8802 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KRISHNA GOPAL R SANDHIR - Petitioner(s)
Versus
OCTROI SUPERINTENDENT & 2 - Respondent(s)

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Appearance :
MR PARESH DAVE with MR MAULIN G PANDYA for Petitioner(s) : 1,
MR RM CHHAYA for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 09/08/2007

ORAL JUDGMENT

This petition has been filed with the main purpose of getting the goods detained by respondents authority released. The goods have been

detained by respondents' Octroi Authority on the ground that the octroi for the import of the goods within the limits of Ahmedabad City has not been paid.

2. I have heard Mr. Paresh Dave appearing with Mr. Maulin Pandya, learned advocate for the petitioner and Mr. RM Chhaya, learned advocate for respondents. I have also perused record of the petition. It is submitted by Mr. Dave that the petitioner is willing to pay the octroi dues of the respondents and, therefore, they may be directed to release the goods upon payment of octroi duty.

2.1. As against that, Mr. Chhaya has drawn my attention to Annexure-C which is a communication addressed to the Deputy Octroi Superintendent, I.B. And Checking, Octroi Department, Ahmedabad Municipal Corporation dated 12/1/2007 by the Assistant Sales Tax Commissioner, Flying Squad, Unit No. 3, State of Gujarat, intimating him that the delivery of the goods in question was required to be stopped since the account books of the seller and purchaser of the said goods were required to be scrutinized. Mr. Chhaya has supplied a copy of the letter dated 19/6/2007 addressed to the petitioner by the respondent – Corporation, which is taken on record. Mr. Chhaya has, therefore, submitted that unless the petitioner obtains 'no objection certificate' from the Sales Tax Department or receipt of payment of sales tax, the goods cannot be released, even if the petitioner is willing to pay the octroi.

3. I have carefully considered the submissions as well as the record of the petition. I have also perused the communication dated 19/6/2007 which

is addressed to the petitioner by the Assistant Manager [I.B./Checking], Octroi Department, in this behalf. The Sales Tax Department has in no uncertain terms asked the respondents not to release the goods unless the clearance has been given by it. The purpose for such direction has been adequately stated in the communication dated 12/1/2007. In view of the same, it is not possible to give any direction to the respondents directing them to straightaway release the goods upon payment of the octroi and other dues by the petitioner. However, the petitioner is at liberty to obtain either 'no objection certificate' or the receipt of payment of sales tax dues from the said Department and produce it before the respondents. Upon production of such document before the respondents and payment of the octroi and other dues, the respondents will release the goods of the petitioner forthwith. As and when the petitioner approaches the Sales Tax Department, it is hoped that the said Department will take immediate action on the request of the petitioner.

With the aforesaid, the petition is partly allowed. Rule made absolute to the aforesaid extent with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.